

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 5/15/2012	(3) CONTACT/PHONE Mark Hutchinson, Environmental Programs Manager (805) 781-5252	
(4) SUBJECT Consideration of items for compliance with the Coastal Development Permit on the Los Osos Wastewater Project including deed restriction documents for Project properties and a Memorandum of Agreement with the California Department of Fish and Game.			
(5) RECOMMENDED ACTION It is our recommendation that your Honorable Board: <ol style="list-style-type: none"> 1. Approve and execute the attached deed restrictions for the Santa Ysabel, Sunny Oaks, Midtown, and Broderson properties in Los Osos; and 2. Approve and execute the attached Memorandum of Agreement with the California Department of Fish and Game for mitigation measures designed to protect the Morro Bay kangaroo rat. 			
(6) FUNDING SOURCE(S) Fund Center 430	(7) CURRENT YEAR FINANCIAL IMPACT \$25,000.00	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A		(12) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(13) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(14) W-9 <input type="checkbox"/> No <input type="checkbox"/> Yes	
(15) LOCATION MAP N/A	(16) BUSINESS IMPACT STATEMENT? No	(17) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date 4/24/12	
(18) ADMINISTRATIVE OFFICE REVIEW <i>Nikki J. Schmidt</i>			
(19) SUPERVISOR DISTRICT(S) District 2 -			

Reference: 12MAY15-C-13

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works

Mark Hutchinson, Environmental Programs Manager
John Waddell, Los Osos Wastewater Project Manager

VIA: Dave Flynn, Deputy Director of Public Works

DATE: 5/15/2012

SUBJECT: Consideration of items for compliance with the Coastal Development Permit on the Los Osos Wastewater Project including deed restriction documents for Project properties and a Memorandum of Agreement with the California Department of Fish and Game.

RECOMMENDATION

It is our recommendation that your Honorable Board:

1. Approve and execute the attached deed restrictions for the Santa Ysabel, Sunny Oaks, Midtown, and Broderson properties in Los Osos; and
2. Approve and execute the attached Memorandum of Agreement with the California Department of Fish and Game for mitigation measures designed to protect the Morro Bay kangaroo rat.

DISCUSSION

On September 20, 2006, California State Governor Arnold Schwarzenegger signed Assembly Bill 2701 (Blakeslee) which allows the County, at the Board's discretion, to assume responsibility for development of a wastewater project for the community of Los Osos. The project requires the completion of a community wastewater collection system and a wastewater treatment facility.

The Conditions of Approval for the project's Coastal Development Permit require deed restrictions to be recorded against six parcels.

Condition 3a (part): "The Habitat Management Plan shall require and provide for the use of the Broderson, Giacomazzi, Midtown, and Pump Station sites [Solano, Sunny Oaks & East Santa Ysabel] each to be restricted through recordation of a deed restriction, prohibiting all non resource-dependent development on each site, other than that associated with the approved project and consistent with the approved Habitat Management Plan."

Your Board's action on February 28, 2012 to approve the Real Property Transfer Agreement for the BSR Property (Solano Pump Station) already satisfied condition 3a for that parcel. This action will address the condition of approval for four additional parcels. The necessary deed restriction for the Giacomazzi treatment plant site will be processed after acquisition activities on that parcel are completed.

Because the listed sites contain Environmentally Sensitive Habitat (ESHA), the deed restrictions are intended to document that future uses of the sites are limited to those already approved with the wastewater project, unless those uses are first approved by the Coastal Commission and meet the Coastal Act definition of resource dependent.

The Conditions of Approval for the project's Coastal Development Permit also require the execution of a "No Take" agreement with the Department of Fish and Game to avoid any impacts to the endangered Morro Bay kangaroo rat. The attached Memorandum of Agreement will satisfy the conditions of approval and contains measures to conduct extensive protocol surveys both before project construction and before any site disturbance related to future maintenance of the leach field site on the Broderson site. Although discovery of a Morro Bay kangaroo rat would delay construction in the vicinity of the find, it is worth noting that the species has not been observed in the wild since 1986 despite many trapping efforts, and the last individual in captivity died in 1993. Both the U.S. Fish and Wildlife Service and Department of Fish and Game consider the species as possibly extinct; however, the Department of Fish and Game believes that the measures listed in the MOA are still appropriate.

OTHER AGENCY INVOLVEMENT/IMPACT

The Office of County Counsel is providing legal guidance on all aspects of the Project and has reviewed and approved the deed restrictions. Many agencies have been involved with the project and the necessary project permits and approvals have been received or are being processed from the following: Coastal Commission, County Planning & Building, Regional Water Quality Control Board, California Department of Fish and Game, United States Department of Agriculture, U.S. Fish and Wildlife Service, Air Pollution Control District, State Water Resources Control Board.

FINANCIAL CONSIDERATIONS

Because the deed restrictions are being filed against property already owned by the project, no additional right-of-way costs are involved. Costs for condition compliance activities are included in the overall project construction budget. The project is funded under a combination of Federal (USDA), State, and Local funds and assessments budgeted under the Los Osos Wastewater Project (WBS 300448). The estimated costs for protocol surveys related to the MOA are \$25,000 and are also included in the overall Project budget approved by your Board on May 17, 2011.

RESULTS

The intended result of this recommendation is to comply with the Coastal Development Permit Conditions of Approval for the project. Approval of the proposed deed restrictions and the MOA will allow for the project to be constructed on schedule. This project is a key element in the plan to address the wastewater issues of the community. An additional result of the recommended action will be to improve water quality in this area.

Reference: 12MAY15-C-13

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ATTACHMENTS

1. Deed Restriction Sites - Map
2. MidTown Deed Restriction
3. Exhibit A to MidTown Deed Restriction
4. Broderson Deed Restriction
5. Exhibit A to Broderson Deed Restriction
6. Santa Ysabel Deed Restriction
7. Exhibit A to Santa Ysabel Deed Restriction
8. Sunny Oaks Deed Restriction
9. Exhibit A to Sunny Oaks Deed Restriction
10. Memorandum of Agreement between the California Department of Fish and Game and the County of San Luis Obispo
11. Exhibit A to Memorandum of Agreement